

REMARKS

Applicants have reviewed the Office Action dated as mailed December 23, 2008 and the documents cited therewith. No claims have been amended herein. The present application contains pending claims 1, 4-7, 10-14, 16, and 18-39.

I. Claim Rejections under 35 U.S.C. §103

Claims 1, 12, 20, 28, 34, and 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication 2002/0038273 by Wherry et al. (hereinafter “Wherry”) in view of U.S. Patent No. 5,774,883 to Anderson et al. (hereinafter “Anderson”). This rejection is respectfully traversed.

In the Final Office Action dated as mailed December 23, 2008, the Examiner stated at the first sentence on page 4:

“Wherry et al. discloses the limitations in the rejections above. Wherry et al. does not disclose the following limitations, but Anderson et al., however, as shown, does.”

However, there are no “limitations in the rejections above;” but only the statement on the bottom of page 3 of the Final Office Action that claims 1, 12, 20, 28, 34, and 39 are rejected. The Examiner made the above statement for each and every element in rejecting the claims. As such, the Examiner states that Wherry does not disclose *any* element of the claims and thus, a Section 103 rejection using Wherry is improper and results only from clear error.

Nonetheless, the cited art of record, alone or in combination, do not teach or suggest all elements of all claims. For example, claim 1 recites:

reviewing a status of at least one creditor at predetermined time intervals, wherein each of the at least one creditor having an outstanding loan from an entity;

identifying at least one status indicator for a creditor;

selecting the creditor to review;

generating a series of inquiries with reference to the creditor, wherein the series of inquiries comprises a series of questions designed to elicit information related to at least one of the creditor and a status indicator;

presenting the inquiries to a user associated with the entity;

determining a quantity of triggers flagged for the selected creditor based on the responses to the inquiries with reference to the creditor;

determining if a key risk review is necessary for the creditor in response to the quantity of flagged triggers being greater than a predetermined number, wherein the key risk review is determined to be necessary if the selected creditor corresponds to a predetermined loss to the entity in the event the creditor becomes bankrupt; and

conducting a key risk review in response determining that a key risk review is necessary, wherein the key risk review comprises reviewing actions to reduce exposure or loss.

Anderson merely discloses a system for a car dealership to structure car deals under lender guidelines and calculate the dealer's profit to determine if each deal is possible. Anderson does not disclose any of the elements of the claims.

In rejecting the first element of claim 1: "reviewing a status of at least one creditor at predetermined time intervals, wherein each of the at least one creditor having an outstanding loan from an entity," the Examiner cites column 29, lines 7-8 of Anderson. Column 29, lines 7-8 of Anderson recites "[t]he negotiations can be resumed at a later time if the current status of the deal is saved." In this portion, Anderson merely states the "current status *of the deal* is saved" and "negotiations are resumed." However, Anderson does not disclose "reviewing the status of at least one creditor," as recited in claim 1. In fact, there is no "reviewing" of anything in Anderson -- only negotiations that are resumed upon certain conditions. Further, there is no disclosure in Anderson of a "status of at least one creditor" -- only a status of a *deal*. Indeed, a "creditor" is not even discussed in the above-cited portion of Anderson. Applicants submit that Anderson simply does not disclose "reviewing a status of at least one creditor at predetermined time intervals, wherein each of the at least one creditor having an outstanding loan from an entity."

Claim 1 also recites "identifying at least one status indicator for a creditor." In rejecting this claim element, the Examiner cited lines 26-28 of column 12 of Anderson, which recites (emphasis added) "[t]his information is about the current status *of the customer*, such as gross income and current debts." As emphasized, Anderson only discusses the status of the customer and does not identify the status of a creditor. The customer of Anderson is not a creditor as the customer in Anderson is attempting to negotiate and buy a car from the car dealer. Thus, Anderson also does not teach this element of claim 1.

The Examiner cited lines 19-27, column 6 of Anderson in rejecting the following elements of claim 1:

“. . . each of the at least one creditor having an outstanding loan from an entity;” and

“selecting the creditor to review,
generating a series of inquiries with reference to the creditor . . .;
presenting the inquiries to a user associated with the entity...and
... wherein the key risk review comprises reviewing actions to reduce exposure or loss.”

Lines 19-27, column 6 of Anderson recite:

“During the negotiation process, many variables may be manipulated (e.g., selling price, interest rate, down payment, financed products, trade allowance, loan term, etc.). The Decision Flex system 100 allows the sales management 102 to instantly track profit and finance program guideline adherence on a real-time basis so that when a deal is accepted, there is no question that it is profitable and that the sales contract will be purchased by a finance source, loan purchaser or lender 108, which grants loan approval 126.”

Accordingly, in this portion, Anderson is merely directed to the manipulation of many variables in the negotiation process of a potential customer buying a car. The system in Anderson determines if the customer qualifies for financing of the car based on finance guidelines. Based on these negotiation variables, a “Decision Flex system” tracks profit amount and adherence to the finance guidelines so that upon acceptance of the deal, the car dealer will know the deal is profitable and will be bought by a finance source. However, there is no disclosure in Anderson of “at least one creditor having an outstanding loan from an entity.” Anderson only tracks profit and finance guideline adherence to determine which financing the customer can get if the car dealer sells the car to the customer. The finance guidelines referred to in Anderson relate to potential financing the creditor may accept. It does not refer to an “outstanding loan” of a creditor. Additionally, as previously presented, the customer in Anderson is not a creditor, but is only a person negotiating with a car dealership to buy a car. As such, Anderson does not teach “selecting a creditor to review” or “generating a series of inquiries with reference to the creditor.” With regard to the claim recitation “the key risk review comprises reviewing actions to reduce exposure or loss,” the above-cited portion of Anderson only discusses maximizing profitability, but does not discuss “reducing exposure or loss.”

The Examiner cited lines 26-28, column 12 of Anderson in rejecting the following elements of claim 1:

... wherein the series of inquiries comprises a series of questions designed to elicit information related to at least one of the creditor and a status indicator;

... determining a quantity of triggers flagged for the selected creditor based on the responses to the inquiries with reference to the creditor;

Lines 24-28, column 12 of Anderson recite:

"[t]he desk manager 102 extracts information related to the customer's budget from the credit application completed and signed by the customer 104. This information is about the current status of the customer, such as gross income and current debts. This information is entered into the computer 140 during execution of the FSF module 230."

Accordingly, Anderson only discusses extracting information and entering such information into a computer. There is no disclosure in this portion of Anderson of a "series of inquiries" or a "series of questions." Further, there is no discussion in Anderson of "determining a quantity of triggers." In fact, there is no discussion of triggers at all and there is certainly no discussion of any "flagged" triggers or a quantity of "flagged" triggers "based on the inquiries."

In rejecting "determining if a key risk review is necessary for the creditor in response to the quantity of flagged triggers being greater than a predetermined number," as recited in claim 1, the Examiner cited lines 54-57 of column 14 of Anderson. This portion of Anderson recites:

"During the operation of module 256, the F&I manager reviews the deal received from the desk manager to determine if it is acceptable according to the F&I department's standards."

Accordingly, Anderson discloses that the manager reviews the deal received to see if it is acceptable. There is no determination if a key risk-review is necessary for the creditor. Additionally, as stated above, the customer is not a creditor – the customer is a person who is looking to buy a car and possibly finance the car if the deal goes through.

The Examiner cited lines 8-11, column 27 of Anderson in rejecting the following element of claim 1: "wherein the key risk review is determined to be necessary if the selected creditor corresponds to a predetermined loss to the entity in the event the creditor becomes bankrupt."

Lines 8-11, column 27 recite “[a]t state 806, the system 100 makes an adjustment to the rate level, if necessary, based on bankruptcy or repossession factors of the buycr 104, if the current rate level is either of Loan Program A, B or C (see Table 1).” This portion of Anderson states that the system adjusts a rate level of the customer based on bankruptcy if the current rate level is a “Loan Program A, B or C.” Applicant’s are at a complete loss as to how this portion of Anderson teaches the above-cited portion of claim 1. Indeed, there is absolutely no disclosure whatsoever in Anderson of “a predetermined loss to the entity in the event the creditor becomes bankrupt.” In fact, there is no disclosure of any “predetermined loss” to the car dealership at all. The mere mentioning of the term “bankruptcy” does not provide the detailed above-recited limitation of claim 1. Applicant respectfully submits that lines 8-11 in column 8 do nothing to teach or suggest any recitation included in claim 1.

For all of the above reasons, claim 1 is submitted to be patentably distinguishable over Anderson. Also, as described in greater detail below, Wherry fails to teach or suggest each and every of these claim elements not disclosed in Anderson, nor is Wherry cited as teaching or suggesting any of these elements in this Section 103 rejection. Reconsideration and withdrawal of the Section 103 rejection over Anderson and Wherry is, therefore, respectfully requested. Likewise, the claims depending from claim 1 are also patentable over any combination of Wherry and Anderson for at least these same reasons.

With regard to independent claims 20, 28, and 34, these claims recite features similar to claim 1. Accordingly, claims 20, 28, and 34 are respectfully submitted to be patentable over Wherry for the same reasons as discussed with respect to claim 1. Reconsideration and withdrawal of the section 103 rejection of claims 20, 28 and 34 is respectfully solicited. Likewise, the claims depending from claims 20, 28, and 34 are also patentable over the cited art of record.

Turning to the Section 103 rejection of claim 39 over Wherry and Anderson, it should be noted that claim 39 was not addressed by the Examiner. Applicants presume the Examiner did not mean to include claim 39 in this Section 103 rejection. This is evident because a quick read of both Wherry and Anderson will show that neither of these references discloses *any* element of claim 39. Applicants respectfully request withdrawal of the Section 103 rejection of claim 39 over Wherry and Anderson.

Claim 39 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Wherry in view of U.S. Patent Application Publication 2002/0038273 to Whitworth (hereinafter “Whitworth”). This rejection is respectfully traversed.

Again, Applicants submit such rejection is improper and confusing. Claim 39 includes all of the limitations of claim 12. The Examiner has previously admitted that Wherry does not disclose any element of claim 12. Additionally, Whitworth does not disclose any of the claim elements of claim 12 and no *prima facie* case has been presented with regard to Whitworth on claim 12. Because claim 39 includes all of the limitations of claim 12, claim 39 cannot be obvious in view of Wherry and Whitworth. Such rejection of claim 39 is in clear error.

II. Claim Rejections under 35 U.S.C. §102

Claims 1-38 were rejected under 35 U.S.C. § 102(b) as being unpatentable over U.S. Patent Application Publication 2002/0038273 by Wherry. This rejection is respectfully traversed.

Applicants submit that this rejection of claims 1-38 presents confusion. First, as previously submitted, the Examiner admitted that Wherry does not disclose any elements of the independent claims. However, the Examiner now asserts a Section 102 rejection over Wherry. Applicant presumes the Examiner erred in presenting the section 102 rejection over Wherry and the Examiner meant to remove such rejection before issuing the Office Action. This is especially evident because the Examiner’s Section 102 rejections and remarks thereto do not even consider the limitations of the independent claims and dependent claim 11, as previously amended by Applicant. The Examiner only considered claims 1-38 as these claims existed prior to Applicant’s amendments. Additionally, the Examiner rejected claims 2-3, 8-9, 15, and 17 even though these claims were cancelled in the previous Office Action response.

If the Examiner has accidentally included the independent claims in the Section 102 rejection, further confusion is presented to the Applicant because the independent claims were rejected under Section 103 and the dependent claims are rejected as a Section 102 rejection. If the independent claims are rejected under Section 103, the dependent claims must also be rejected under Section 103 or be allowed. Clarification of such rejections is respectfully requested so that Applicant is afforded an opportunity to respond to the rejections, if any, the Examiner meant to present.

Nonetheless, as shown below, Applicant still responds to the Section 102 rejection of claims 1-38 over Wherry as presented by the Examiner. As previously presented with regard to the Section 103 rejection, claim 1 recites:

- reviewing a status of at least one creditor at predetermined time intervals, wherein each of the at least one creditor having an outstanding loan from an entity;
- identifying at least one status indicator for a creditor;
- selecting the creditor to review;
- generating a series of inquiries with reference to the creditor, wherein the series of inquiries comprises a series of questions designed to elicit information related to at least one of the creditor and a status indicator;
- presenting the inquiries to a user associated with the entity;
- determining a quantity of triggers flagged for the selected creditor based on the responses to the inquiries with reference to the creditor;
- determining if a key risk review is necessary for the creditor in response to the quantity of flagged triggers being greater than a predetermined number, wherein the key risk review is determined to be necessary if the selected creditor corresponds to a predetermined loss to the entity in the event the creditor becomes bankrupt; and
- conducting a key risk review in response determining that a key risk review is necessary, wherein the key risk review comprises reviewing actions to reduce exposure or loss.

In contrast, Wherry merely discloses a system for investment integration to allow disparate investment tools to communicate with each other, and discloses that alerts can be provided when certain criteria of stock investment parameters are met (*see Abstract of Wherry*). However, there is no disclosure in Wherry of “reviewing a status of at least one creditor at predetermined time intervals, wherein each of the at least one creditor having an outstanding loan from an entity,” as recited in claim 1. Wherry only deals with investment securities, such as stocks, and is not applied to or even mention creditors having an outstanding loan from an entity. Further, Wherry does not discuss managing loans. Since Wherry does not discuss creditors or managing loans to creditors, Wherry does not disclose “identifying at least one status indicator for a creditor” or “selecting the creditor to review,” both of which are recited in claim 1 above. Further, there is no disclosure in Wherry of “generating a series of inquiries with reference to the creditor, wherein the series of inquiries comprises a series of questions designed to elicit information related to at least one of the creditor and a status indicator.” Wherry merely discusses automatically generating an alert once

criteria is met, but does not disclose generating a series of inquires for a user to respond to. In fact, Wherry actually teaches away from such inquires because the purpose in Wherry is to “remov[e] from the investment manager the tedious tasks of . . . data input.” Since the series of inquiries is data input, a user is involved in the process of claim 1 and thus, Wherry explicitly teaches away from claim 1 and one skilled in the art would not look to Wherry in coming up with the claimed invention. As such, Wherry certainly does not teach “presenting the inquires to a user associated with the entity,” as recited in claim 1. Next, Wherry does not determine “a quantity of triggers flagged for the selected creditor based on the responses to the inquiries with reference to the creditor.” Wherry is only concerned with a single alert and thus does not determine a quantity of triggers and certainly does not determine the quantity based on response to the inquires that were presented to the user. Yet further, Wherry does not disclose the step of “determining if a key risk review is necessary for the creditor in response to the quantity of flagged triggers being greater than a predetermined number, where the key risk review is determined to be necessary if the selected creditor corresponds to a predetermined loss to the entity in the event the creditor becomes bankrupt.” There is no disclosure in Wherry of such a key risk review, and there is no disclosure of determining if a review is necessary if the creditor corresponds to a loss to the entity in the event of bankruptcy. Wherry does not even mention the term bankruptcy. For all of the above reasons, Applicants submit that claim 1 is patentable over Wherry and reconsideration and withdrawal of the Section 102 rejection is respectfully requested.

Regarding the rejection of claims 4-7 and 10-11 under 35 U.S.C. § 102 as being unpatentable over Wherry, these claims recite additional features which further patentably distinguish over Wherry. For example, regarding the rejection of claim 11, claim 11 recites “performing an exposure review that determines how much is at stake if the outstanding loan becomes at least partially uncollectable in response to the quantity of flagged triggers being greater than the predetermined number and a key risk review not being performed.” There is no disclosure in Wherry of such claim feature. For example, there is no disclosure in Wherry to determine how much is at stake if an outstanding loan becomes at least partially uncollectable. Therefore, claim 11 is submitted to be patentably distinguishable over Wherry and reconsideration and withdrawal of the Section 102 rejection of claim 11 is respectfully requested.

Additionally, claims 4-7 and 10-11 depend either directly or indirectly from independent claim 1. Because of this dependency, claims 4-7 and 10 include all of the features of independent claim 1. Therefore, claims 4-7 and 10-11 are also submitted to be patentably distinguishable over Wherry, and reconsideration and withdrawal of the Section 102 rejection of claims 4-7 and 10-11 is respectfully requested.

With regard to independent claim 12, claim 12 recites features similar to claim 1. Accordingly, claim 12 is respectfully submitted to be patentable over Wherry for the same reasons as discussed with respect to claim 1. Reconsideration and withdrawal of the section 102 rejection of claim 12 is respectfully solicited.

Regarding the rejection of claims 13-14, 16, 18 and 19 under 35 U.S.C. § 102 as being unpatentable over Wherry, these claims recite additional features which further patentably distinguish over Wherry. For example, claim 14 recites:

“electronically determining any change in a Standard and Poor's (S&P) bond rating for the selected creditor by a predetermined number of grades;

electronically determining any change in a Moody's rating for the selected creditor by a predetermined number of grades;

electronically determining any change in a credit default swap spread for the selected creditor by a predetermined number of basis points in a predetermined time period;

electronically determining any change in a bond spread for the selected creditor by a predetermined number of basis points in a predetermined time period;

determining if the creditor has a broken or defective business model;

determining if the creditor's industry is experiencing any downturn;

determining any impact of any recent event on the creditor; and

determining a nature or demeanor of the creditor's management.”

Claim 14 was rejected by citing either paragraph [0078] or [0079] of Wherry. However, Applicants respectfully submits that none of these paragraphs disclose any of the specific disclosed features of the claim. For example, one element of claim 14 includes “electronically determining any change in a Moody's rating for the selected creditor by a predetermined number of grades” and paragraph [0078] was cited. However, Applicants can't find anywhere in such paragraph where the “change in Moody's rating” is disclosed or even mentioned. This is a specific claim feature that must be taught in the prior art in order to reject the claim. By way of another example, claim 14 recites

“determining if the creditor has a broken or defective business model.” There is simply no disclosure at all in Wherry of such claimed element. There is no mention of a business model being analyzed. Applicants respectfully requests reconsideration

Additionally, claims 13-14, 16, 18 and 19 depend either directly or indirectly from independent claim 12. Because of this dependency, claims 4-7 and 10 include all of the features of independent claim 12. Therefore, claims 13-14, 16, 18 and 19 are also submitted to be patentably distinguishable over Wherry, and reconsideration and withdrawal of the Section 102 rejection of claims 13-14, 16, 18 and 19 is respectfully requested.

With regard to independent claims 20, 28 and 34, these claims recite features similar to claim 1. Accordingly, claims 20, 28 and 34 are respectfully submitted to be patentable over Wherry for the same reasons as discussed with respect to claim 1. Reconsideration and withdrawal of the section 102 rejection of claims 20, 28 and 34 is respectfully solicited.

With respect to claims 21-27, 29-33 and 35-38, claims 21-27 depend from independent claim 20; claims 29-33 depend from independent claim 28; and claims 35-38 depend from independent claim 34. Because of these dependencies, claims 21-27, 29-33 and 35-38 include all of the features of the referenced independent claims. As discussed above, Applicant respectfully submits that independent claims 20, 28 and 34 are patentable over Wherry. As such, Applicant respectfully submits that claims 21-27, 29-33 and 35-38 are also patentably distinguishable over Wherry for the same reasons, and reconsideration and withdrawal of the 35 U.S.C. §102 rejections of claims 21-27, 29-33 and 35-38 is respectfully requested.

Conclusion

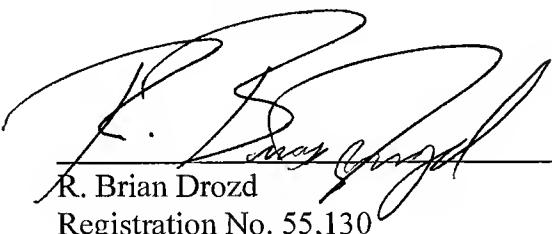
For the foregoing reasons, the Applicant respectfully submits that all of the claims in the present application are in condition for allowance. Reconsideration and withdrawal of the rejections and allowance of the claims at the earliest possible date are respectfully requested.

If the Examiner has any questions about the present Amendment or anticipates finally rejecting any claim of the present application, a telephone interview is requested.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 13-4365.

Respectfully submitted,

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